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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,415	09/27/2004	Roland N. Walker	12160.4	8436
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KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			EXAMINER COLILLA, DANIEL JAMES	
			ART UNIT 2854	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,415

Applicant(s)

WALKER ET AL.

Examiner

Daniel J. Colilla

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 18 is objected to because of the following informalities:

Claim 18 depends from cancelled claim 17. For purposes of expediting examination claim 18 will be examined as if it depended from claim 16.

Additionally, "the flower which is printed on" has no proper antecedent basis since previously applicant has recited a plurality of flowers that are printed. This objection could be overcome by reciting --at least one of the flowers which is printed on-- in place of "the flower which is printed on."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 8, 9, 10 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm (US 5,435,240) in view of Skonecki (US 5,305,550), Reinhardt et al. (US 4,957,787), Hirata (JP 59-016801), Roulleau (US 5,142,976) and Carroll (US 5,366,192).

With respect to claims 1 and 21, Fromm discloses the claimed method for providing an image on an article but does not disclose providing the image on a flower or producing a group of flowers with a communication. Fromm discloses a system and method for providing an image

on an organic product including the steps of creating an image on a transfer medium 36, transferring the image onto a flexible organic product such as skin or leather (Fromm, col. 4, lines 57-61, col. 5, lines 2-5). Skonecki, Reinhardt et al., Hirata, and Roulleau teach that it is known and desirable to print on delicate articles such as flowers, artificial flowers, Leaves of a plant and eggs respectively. In view of the teachings of the prior art, it would have been obvious to one of ordinary skill in the art to provide an image on a flower using the system or method disclosed by Fromm for the advantage of applying a brand name, advertising or adding personal messages to the flower. Carroll teaches that it is known to produce a group of flowers free of an etched or cut image (Carroll, col. 1, lines 8--10) each flower having a stem and one or more petals (see Figure 1 of Carroll). Carroll also teaches the combination of a group of flowers containing a communication from a sender to a recipient (Carroll, col. 1, lines 8-10). It would have been obvious to combine the teaching of Carroll with the method disclosed by Fromm (US 5,435,240) for the advantage of sending a message to someone one a unique message medium.

With respect to claim 2, Fromm discloses the claimed method for providing an image except for the step of creating an image on a cliché. Fromm discloses creating a first image on a sheet 32 by applying ink to the sheet 32, lifting at least a portion of ink from the sheet 32 to form a second image on the transfer medium 36 as mentioned above. Roulleau teaches creating an image creating a first image on a cliché (Roulleau, col. 1, lines 39-40), applying ink to the cliché (Roulleau, col. 1, lines 40-41), and lifting at least a portion of the ink from the cliché to form a second image, wherein the second image is the image created on the transfer medium (Roulleau, col. 1, lines 42-46). It would have been obvious to substitute the sheet 32 disclosed by

Fromm with the cliché taught by Skonecki , Reinhardt *et al.*, Hirata and Roulleau for the advantage of using provided artwork (the image on the cliché) instead of needing to create one's own artwork, and thus reducing the amount of time to complete the process.

With respect to claim 3, Fromm discloses placing transfer medium 36 in contact with the sheet 32 and removing the transfer medium 36 from the sheet 32 (Fromm, col. 4, lines 52-59). Similarly, Roulleau teaches placing the transfer medium in contact with the cliché; and removing the transfer medium from the cliché (Roulleau, col. 1, lines 43-46).

With respect to claim 4, Roulleau teaches removing excess ink applied to the cliché (Roulleau, col. 1, lines 40-43).

With respect to claim 8, Fromm discloses allowing the image to set. Note setting occurs when the image is transferred to the final surface.

With respect to claim 9, Skonecki teaches printing on a flower (See Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fromm to print on a flower so that the user can print a personalized message or drawing on one of its petals as taught by Skonecki. Additionally, with respect to the limitation of providing an image on a group of flowers," repeating an identical step on an identical article to achieve an identical result is an obvious modification that one of ordinary skill in the art would perform to achieve the same advantages as that of the first performance of the step.

With respect to claim 10, Fromm discloses that the image can be a picture or design of a flower as shown in Figure 3 of Fromm or the picture can be a character as mentioned in col. 4, lines 36-37 of Fromm.

With respect to claim 22, Skonecki teaches that the flower with a message is a rose (Skonecki, abstract, lines 1-2).

With respect to claim 23, Skonecki teaches printing a message on a petal of a flower.

With respect to claim 24, Fromm teaches a pad printing, transfer technique (Fromm, col. 2, lines 8-13).

With respect to claim 25, Lampinski teaches a machine for pad printing through a transfer printing technique (Lampinski, col. 6, lines 63-64).

4. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm (US 5,435,240) in view of Skonecki (US 5,305,550), Reinhardt et al. (US 4,957,787), Hirata (JP 59-016801), Roulleau (US 5,142,976) and Carroll (US 5,366,192), as applied to claims 2 and 16 above, and further in view of Lampinski (US 6,314,880).

With respect to claim 5, Fromm in view of Skonecki, Reinhardt *et al.*, Hirata, Roulleau and Carroll teaches all that is claimed as discussed above except for the step for creating a first image comprising the step for etching the first image into the cliché. Lampinski teaches the step for creating a first image comprising the step for etching the first image into the cliché (Lampinski, col. 3, lines 40-62 and col. 4, lines 67- col. 5, line 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fromm in view of Skonecki, Reinhardt *et al.*, Hirata and Roulleau such that the first image is created by etching it into the cliché to produce a high quality image on a plate as taught by Lampinski.

With respect to claim 6, Fromm in view of Skonecki, Reinhardt *et al.*, Hirata, Roulleau and Carroll teaches all that is claimed as discussed above except for the cliché comprising a

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photosensitive material. Lampinski teaches a method wherein the cliché comprises a photosensitive material (Lampinski, col. 5, lines 37-40. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fromm in view of Skonecki, Reinhardt *et al.*, Hirata, Roulleau and Carroll such that the cliché comprises a photosensitive material so that the cliché can polymerize under the action of radiation as taught by Lampinski.

With respect to claim 7, Fromm in view of Skonecki, Reinhardt *et al.*, Hirata, Roulleau and Carroll teaches all that is claimed except for the step for etching comprising the steps for: providing a third image; creating a film positive of the third image; and exposing the photosensitive material through a wash out process to etch the third image into the photosensitive material. Lampinski teaches a method wherein step for etching comprises the steps for: providing a third image (Examiner notes that Lampinski teaches creating multiple images; creating a film positive of the third image; and exposing the photosensitive material through a wash out process to etch the third image into the photosensitive material (Lampinski, col. 3, lines 41-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Fromm in view of Skonecki, Reinhardt *et al.*, Hirata, Roulleau and Carroll wherein the etching comprises providing a third image, creating a film positive of the third image, and exposing the photosensitive material through a wash out process to etch the third image into the photosensitive material to create images with a variety of colors using an etching technique combined with pad printing as taught by Lampinski.

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5. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skonecki (US 5,305,550) in view of Carroll (US 5,366,192).

With respect to claim 16, Skonecki discloses the claimed system except for the group of flowers and the communication. Skonecki discloses a flower free of an etched or cut image including an image such as the one shown in Figure 1 of Skonecki. The image including the term "congratulations" is a known communication that can be a communication from a sender of the flower to an individual or it can be a generic message to recipients in general. This communication can also be considered a commemoration of an event. Although only one flower is disclosed, it would have been obvious to include multiple flowers in the system with a communication to an individual as is taught by Carroll (col. 1, lines 8-10). It would have been obvious to combine the teaching of Carroll with the system disclosed by Skonecki for the advantage of providing a bigger impression with a larger number of flowers. It is noted that this claim is directed to an apparatus thus a recitation of how the image is printed (i.e. "pad printing") carries no patentable weight in the claim if it results in no structure that is different than the prior art. In this case the method of printing the image does not appear to result in any different structure in the system.

With respect to claim 18, Figure 1 of Skonecki shows that the flower petal has been printed.

6. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skonecki (US 5,305,550) in view of Carroll (US 5,366,192), as applied to claim 16 above, and further in view of Lampinski (US 6,314,880).

With respect to claim 19, Lampinski teaches an etched image on the cliché (Lampinski, col. 4, lines 67-col. 5, line 3). It would have been obvious to the teaching of Lampinski with the system disclosed by Skonecki in view of Carroll for the advantage of using provided artwork (the image on the cliché) instead of needing to create one's own artwork, and thus reducing the amount of time to complete the process.

With respect to claim 20, Lampinski teaches that the transfer medium is a pad (col. 3, lines 41-42).

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered.

In addition to the arguments made in the previous Office actions, the examiner would like to state that the prior art of record discloses the recited structure used in applicant's claimed method. The prior art also discloses all the steps of the claimed method except for the final step of applying the image to a flower. However, the prior art of record shows that it is known to print on very delicate objects. Thus one of ordinary skill in the art would find it obvious to use the same structure to carry out the method of printing on other delicate objects. Especially in view of Skonecki who teaches that it is known to provide messages for communication by printing ink on a flower. Skonecki additionally teaches that it is known to apply a message with an applicator. Skonecki states that the applicator *can* be a pen or brush but it is not *required* to be such. One of ordinary skill in the art would therefore look to other types of applicators for applying messages or drawings.

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8. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and were finally rejected on the grounds and art of record in the last Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Colilla whose telephone number is 571-272-2157. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached at 571-272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 6, 2007



Daniel J. Colilla
Primary Examiner
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